

**LOCAL RULES OF PRACTICE AND PROCEDURE
FOR THE MONROE CIRCUIT COURT**

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RULE 1

SERVICE OF PROCESS

A. **SERVICE BY MAIL:** Except for ejectment cases, service of process in civil cases should be made by certified or registered mail, whenever possible.

B. **SERVICE BY SHERIFF:** When service of process is to be made by the Sheriff, the attorney seeking service shall attach to the face thereof a sheet providing the following information about the person to be served, to the extent available:

1. Name and brief physical description;
2. Address, as complete as possible; i.e., if a county address, not only the rural route and box number but specific driving directions, landmarks, etc. Include apartment number or lot number if applicable;
3. Whether or not a restraining order is attached;
4. Place of employment and work shift;
5. Telephone number;
6. Name of person residing with, if not at own address; and
7. Date of birth and Social Security number.

All papers not meeting the requirements of this subdivision shall be returned unserved by the Sheriff to the filing party.

RULE 2

APPEARANCE AND WITHDRAWAL

A. **WITHDRAWAL OF APPEARANCE:** All withdrawals of appearance shall be in writing and only by leave of Court. Petitions to withdraw may be filed no earlier than five days after the attorney has certified written notice to the client of the intention to withdraw, unless there is a simultaneous or prior entry of appearance by the new attorney. The written notice shall state any pending deadlines or hearing dates and a copy of said notice shall be attached to the petition to withdraw.

RULE 3

PREPARATION OF PLEADINGS AND ORDERS

A. **PRODUCTION:** All pleadings and proposed orders shall be typewritten on opaque white paper, eight and one-half inches (8-1/2") wide and eleven inches (11") long. If a pleading or proposed order involves two different case numbers, a separate pleading and proposed order shall be filed with the Court for each cause number.

B. **PROPOSED ORDERS:** Any attorney filing a motion shall, at the time of filing, provide the Court with an original proposed order and sufficient copies for each party and an extra copy for the Court. Proposed orders shall include a full distribution list of attorneys or parties to whom the order should be sent.

C. **FILING BY ELECTRONIC FACSIMILE TRANSMISSION:**
Pleadings may be filed by facsimile. Facsimile filing does not require follow up filing of duplicate original documents.

RULE 4

MOTIONS

A. **ENLARGEMENT OF TIME TO ANSWER:** An initial written motion for enlargement of time to file an answer or other responsive pleadings shall be automatically allowed for an additional thirty (30) days from the original due date without order of the Court. Said motion shall state the original date when the response was due and the date to which time is enlarged. For this rule to be applicable, the motion must be filed on or before the original due date.

B. **ACCOMPANYING LEGAL MEMORANDUM:** A separate legal memorandum shall be filed with any Motion to Dismiss, Motion for Judgment on the Pleadings, Motion for More Definite Statement and Motion to Strike. A party opposing such motion shall file a response memorandum within twenty (20) days of the filing of the motion or the motion shall be subject to summary ruling.

C. **TRIAL RULE 12(B) DEFENSES:** The requirement of a legal memorandum set for the above shall apply with regard to any defense listed under Trial Rule 12(b).

D. **REQUEST FOR ARGUMENT:** When oral argument is requested, the request shall be by separate pleading and shall be filed with the pleading to be argued.

RULE 5

INTERROGATORIES

A. **NUMBER OF INTERROGATORIES:** The number of interrogatories which may be served pursuant to Rule 33 shall be limited so as to require the answering party to make no more than fifty (50) answers. Waiver of this limitation by order of the Court will be granted in cases in which such limitation would work a manifest injustice or would be impractical because of the complexity of the issues of the case.

B. **FORM OF ANSWERS OR OBJECTIONS:** Answers or objections to interrogatories shall set forth in full the interrogatory being answered or objected to immediately preceding the answer or objection.

RULE 6

DEPOSITIONS

A. **VIDEO TAPE DEPOSITIONS:** A transcript of the video tape testimony shall be tendered to the Court when the deposition is offered into evidence. Any party may view a video taped deposition in the custody of the Court only upon order of the Court.

B. **DEPOSITIONS OF EXPERTS:** All depositions of experts shall be admissible at trial unless objection to the admissibility be given in writing five (5) days prior to the taking of said deposition or within ten (10) days subsequent to notice of the deposition, whichever deadline occurs first. A copy of the notice shall be tendered to the reporter at the time of taking the deposition for inclusion with the deposition. In the absence of such written notification, the deposition of an expert may be admitted by stipulation. The presence of the expert within the limits of the subpoena area shall not be grounds, in and of itself, for the inadmissibility of the deposition at trial. Notwithstanding the above, either party may subpoena such expert for the trial.

C. **COPY OF DEPOSITION:** Any party or counsel to an action may obtain a xerox copy of a deposition on file with the Clerk of the Court upon tender of a receipt showing payment to the deposing party of 50% of the cost of said deposition. In addition, the requesting party or counsel shall tender to the Clerk the present statutory rate per page for the copying service.

RULE 7

CONTINUANCES

A. **CONTINUANCES DISCOURAGED:** Motions for continuance are discouraged and the Court rejects the notion of automatic continuances by purported custom and tradition.

B. **WRITTEN MOTION:** A motion for continuance, unless made during the hearing of the cause, shall be written, signed and verified. Such motion shall comply in all respects with Trial Rule 53.5 of the Indiana Rules of Trial Procedure.

C. **SCHEDULING CONFLICTS:** A motion for continuance based upon a scheduling conflict with another cause shall specify the Court, the case name, the Cause number, the date the hearing or trial was set, and the type of hearing or trial.

D. **DUTY TO CONFER:** Before requesting a continuance, the moving party shall confer with the other parties to determine any objections and to ascertain dates for rescheduling when all parties are available. Such objections and alternative dates shall be reported in the motion for continuance.

RULE 8

SPECIAL PROCEEDINGS

A. CHILD SUPPORT GUIDELINE WORKSHEET: In any proceeding involving child support, each party shall submit to the Court a “Guideline Worksheet” which is complete, signed by the party and verified.

B. FINANCIAL DECLARATIONS: In any dissolution of marriage or legal separation proceeding, each party shall complete in full, date, sign and verify a Financial Declarations form as set out herein as Appendix A. The Financial Declarations shall be filed no less than four (4) working days before the contested hearings. Failure to do so may subject the party and/or the attorney to sanctions.

C. FINANCIAL DECLARATIONS - ADMISSIBILITY: Absent objection, the Financial Declarations shall be considered as received in evidence, subject to cross examination. Direct examination on matters in the Financial Declarations should be confined to corrections or unusual factors needing further explanation.

D. WRITS OF ATTACHMENT: Unless otherwise ordered by the Court, writs of attachment shall expire six (6) months after issuance. Upon expiration, the pending proceeding supplemental shall be dismissed.

VISITATION GUIDELINES OF THE MONROE CIRCUIT COURT

1. INTRODUCTION

These guidelines have been developed jointly by the Monroe County Bar Association and the Monroe County Board of Judges to deal with issues of visitation. **The best visitation plan is one carefully crafted by a child's mother and father. However if the parents are unable to agree, then these guidelines will usually and customarily be imposed by order of the Court.**

2. BIRTH TO AGE 2

2.1 Birth to Six Months. The non-custodial parent shall be allowed to visit with the child for three (3) periods each week. Each period shall last for three (3) hours. In addition, the non-custodial parent shall be allowed to spend one three-hour period with the child on the child's birthday, on Father's Day or Mother's Day (according to the gender of the non-custodial parent), and on Christmas Eve Day or Christmas Day, as the non-custodial parent may elect. All of these visits shall occur in the custodial parent's home unless both parents agree otherwise.

2.2 Six months to 1 year. The non-custodial parent shall be allowed to visit with the child for two (2) eight hour periods each week, but the visits shall not be overnight. These visitation periods shall occur on Saturday or Sunday unless the work schedule of the non-custodial parent dictates otherwise. In addition, the non-custodial parent shall have visitation with the child from 1:00 p.m. until 8:00 p.m. on the child's birthday in even numbered years. The non-custodial parent shall have visitation with the child from 1:00 p.m. until 8:00 p.m. on Thanksgiving and Christmas Eve Day. All of these visits (and all visits set forth in following sections) may occur outside the custodial parent's home.

2.3 One to two years. The non-custodial parent shall be allowed to visit with the child on alternating weekends from Saturday at 9:00 a.m. until Sunday at 6:00 p.m., as well as every Wednesday evening from 5:00 p.m. until 8:00 p.m. The non-custodial parent shall also have the holiday visitation set forth in Section 2.2 above and one week of summer vacation. The non-custodial parent shall provide the custodial parent with written notice of the date this week will begin by May 1st.

3. AGE 2 - AGE 18

3.1 Ages 2 through 18. The non-custodial parent shall have alternating weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m., every Wednesday evening from 5:00 p.m. until 8:00 p.m. and summer vacation as follows:

- a. Age 2 to age 3:** two non-consecutive weeks;
- b. Age 3 to age 4:** three weeks (one period of two consecutive weeks and one additional week);
- c. Age 4 to age 5:** four weeks (two periods of two consecutive weeks or ½

- summer vacation, whichever is less;
- d. Age 5 to age 6:** five weeks (choice of non-consecutive or consecutive or 1/2 summer vacation, whichever is less);
- e. Age 6 to age 18:** one half of the school summer break;

The non-custodial parent shall provide the custodial parent with written notice of the specific dates for these summer visitations by May 1st. During the summer vacation visitation with the non-custodial parent, the custodial parent will have visitation every other weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m.

3.2 Holiday visitation.

a. Mother's Day/Father's Day: The child shall be with Mother on Mother's Day, and with Father on Father's Day from 9:00 a.m. to 6:00 p.m. every year.

b. Child's Birthday: The non-custodial parent shall have the child for 3 hours on the child's birthday in the even numbered years. The custodial parent shall have the child for this same period in the odd numbered years.

c. Christmas Vacation and Spring Break: Each parent shall be entitled to one-half of the Christmas School Break each year and once the child has started school to the Spring Break in alternate years, with the custodial parent having the even numbered years and the non-custodial parent having the odd numbered years. The parents must decide which day they would always like to celebrate the Christmas Holiday, either Christmas Day or Christmas Eve. If they cannot decide, then the custodial parent shall always have Christmas Eve and the non-custodial parent shall always have Christmas Day. Christmas Eve visitation will be from 6:00 p.m. the day school lets out for Christmas break until 1:00 p.m. on Christmas Day and Christmas Day visitation will be from 1:00 p.m. on Christmas Day until 6:00 p.m. the day before school resumes.

3.3 Additional Holiday Visitation. The additional holidays are as follows: New Year's Day, Easter, Memorial Day, July 4th, Labor Day, and Thanksgiving. In the odd numbered years the non-custodial parent shall have the children on New Year's Day, Memorial Day, and Labor Day. The custodial parent shall have these holidays in the even numbered years. In the even numbered years the non-custodial parent shall have the children for Easter, 4th of July and Thanksgiving. The custodial parent shall have these holidays in the odd numbered years. Other than Thanksgiving, which shall run from 9:00 a.m. on Thursday until 6:00 p.m. the following day, these holiday visitations shall be from 9:00 a.m. until 6:00 p.m. If a parent's holiday visitation occurs on the day before or the day after the parent's regular time with the child begins or ends, the child need not be returned to the other parent for the intervening night.

3.4 Conflicts between Regular & Holiday Visitation: When holiday visitation conflicts with regular visitation the holiday visitation schedule shall apply.

4. GENERAL PRINCIPLES

4.1 Out of Town Travel: As a matter of courtesy, each parent will notify the other of travel from the immediate area with the child. The immediate area is defined as over 100 miles or across state lines.

4.2 Grandparents & Other Relatives: Parents are encouraged to have their child maintain ties with both the paternal and maternal relatives. In most cases, the children will

visit with the paternal relatives during the times the children are with their father and with the maternal relatives when with their mother.

4.5 Telephone Contact. Each parent shall supply the other with a current address and telephone number. Each parent shall allow liberal and reasonable telephone and mail privileges with the children.

4.6 Extracurricular Activities: Children are often involved in sports, lessons, and other extracurricular activities, which are generally to their benefit and enjoyment. Each parent should be flexible in accommodating the children's extracurricular activity schedules as much as reasonably possible. However, extracurricular activities should not be planned to interfere with summer visitation for the non-custodial parent nor should they be used as a method by which to deny access to the non-custodial parent.

4.7 Medical Information: Both parents shall have complete access to any and all health, medical, dental, optical, counseling, or other records regarding the welfare of the child pursuant to *Indiana Code 16-39-1-7*.

4.8 Educational Information: Both parents shall have complete access to any and all school records and the right to be informed of any school-parent activities and to participate in school events and conferences. If the school will provide only one notice of those events, then the parent receiving the notice shall have the responsibility of advising the other parent of the event pursuant to *Indiana Code 20-10.1-22.4-2*. Each parent is expected to execute any documents required by the school system so that the school will honor this provision.

4.9 Visitation Clothing: The non-custodial parent should have some clothing for the children, including diapers. However, the custodial parent is expected to send clothing with the child and the non-custodial parent shall return same clean, where reasonably possible.

4.10 Notice of Canceled Visitation: Whenever possible, the non-custodial parent shall give a minimum of 3 days notice of intent not to exercise all or part of a scheduled visitation. When such notice is not reasonably possible, the maximum notice permitted by the circumstances and the reason for the cancellation shall be given.

4.11 More than One Child: Generally families with more than one child should use the schedule for the oldest child for all the children. However, visitation with children under the age of one year shall continue to be as set out in Sections 2.1 and 2.2 unless both parents agree otherwise.

5. TRANSPORTATION

Both parents shall share the responsibility for the transportation of the child from and to each of their respective residences. If the parties are within a 60-mile radius, the non-custodial parent will pick up the child and the custodial parent will retrieve the child. If the distance is farther than 60 miles, then other arrangements may need to be made. While it is most desirable for the parent to pick up and return the children, this provision does not prohibit grandparents, current spouses or other appropriate adults known to the children from doing so.

For any child under the age of four (4), each parent must comply with *Indiana Code 9-19-11-1 et seq.* and *Indiana Code 9-13-2-23*. These are the laws which require children to be properly fastened and restrained in a vehicle.